

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Roy & Jill Schares,**  
Petitioners-Appellants.

v.

**Black Hawk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-07-1423**  
**Parcel No. 8813-03-453-007**

On January 27, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Roy and Jill Schares, were self-represented and requested the appeal take place without hearing. Assistant County Attorney David Mason represented the Black Hawk County Board of Review. The Appeal Board now having examined the entire record, the written testimony, and being fully advised, finds:

***Findings of Fact***

Roy and Jill Schares, owners of property located at 3846 Tami Terrace, Waterloo, Iowa, appeal from the Black Hawk County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$228,270: representing \$22,640 in land value and \$205,630 in dwelling value.

Schareses protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). The Board of Review denied the protest.

Schareses filed their appeal with this Board on the same ground. Schareses claim \$196,000 is the correct value and fair assessment.

The subject property is improved with a two-story frame dwelling having a 1008 square-foot base built in 2002. The dwelling also has an 80 square-foot, one-story, open-frame porch; 288 square feet of living quarters over the garage; and an attached garage of 672 square feet. The site consists of 0.255 acres of land.

To support their appeal, Schareses submitted an appraisal from Jake K. Rash of Star Performers, Ltd., Waterloo, Iowa. The appraisal was completed for property tax assessment purposes and is dated April 25, 2011. Rash used four sales that ranged from \$188,000 to \$233,000 and occurred between May and August 2010. The sales were all located within 1 mile of the subject property in Waterloo. He determined the final adjusted range to be from \$189,863 to \$219,846. Rash concluded a value for the subject property at \$196,000.

The Board of Review submitted written evidence commenting on several issues it had with the appraisal. First, it questioned the location adjustments made in the appraisal. Its comments centered on the fact that downward location adjustments of \$13,160 to \$16,030 were made to several of the properties, but those properties are all within a mile of the subject property. Second, it commented on several points of difference between the property record cards and the data contained in the appraisal. The Board of Review submitted property record cards with highlights that note the differences. Finally, the Board of Review notes several differences between the subject property's listing when it was new in 2003 versus the measurements and/or information contained in the appraisal. The Board of Review noted if one were to disregard the discrepancies the Board of Review believe exist, it would result in an average sale price per square foot of \$109.44 from the properties used in the appraisal. Applying that figure to the subject property, the Board of Review asserts, would result in a value of \$222,160. Despite some of these discrepancies between the appraisal and property record cards, we still find the appraisal reliable. The appraisal indicates the subject property was personally inspected both on the exterior and interior, which is more recent than the original listing of the property in 2003.

The Board of Review also submitted three sales as comparables to the subject property. All three sales were of two-story homes. However, these sales were not adjusted to the subject property. The Board of Review used the sales to determine an average sale price per square foot of \$102.95. It then applied this unadjusted value to the subject property to determine a new fair market value of \$208,900.

We find the best evidence in the record is the appraisal performed by Rash. Therefore, we modify the January 1, 2011, assessment determined by the Black Hawk County Board of Review. The best estimate of value is \$196,000, and we allocate \$22,640 to land and \$173,360 to the dwelling.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable

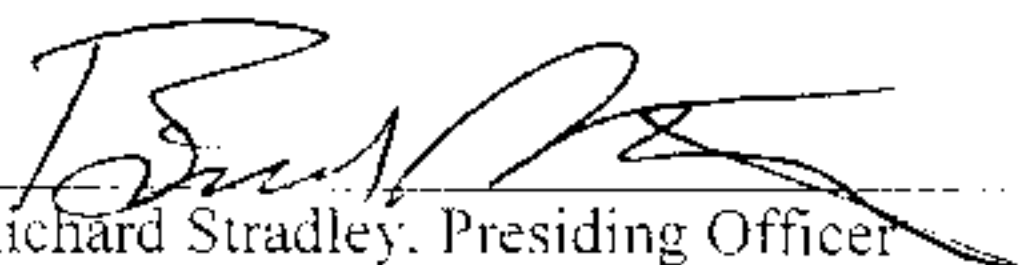
properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775,779 (Iowa 2009). The issue of comparability has two facets: the property must be comparable and the sale of that property must be a “normal transaction”. *Id.* at 782-83. When sales of other properties are offered, they must be adjusted for differences that affect market value. *Id.* at 783. These differences could include size, age, use, condition, and location, among others. *Id.* In addition, if a sale is “abnormal” or not arms-length, it must be analyzed to determine if an adjustment is necessary. *Id.* Schareses proved by a preponderance of the evidence that the property of over assessed and its correct assessment.

We, therefore, modify the assessment of the subject property located at 3846 Tami Terrace, Waterloo, Iowa, as determined by the Black Hawk County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Schareses’ property located at 3846 Tami Terrace, Waterloo, Iowa, determined by the Black Hawk County Board of Review is modified to \$196,000.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Black Hawk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected

Dated this 13 day of April 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-13</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	